



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R09-OAR-2004-0091; FRL-9947-72-Region 9]

Outer Continental Shelf Air Regulations

Consistency Update for California

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Ventura County Air Pollution Control District ("Ventura County APCD" or "District") is the designated COA. The intended effect of approving the OCS requirements for the Ventura County APCD is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed in this document are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: Comments must be received by [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2004-0091 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947-4125, vineyard.christine@epa.gov.

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I. Background Information

A. Why is the EPA taking this action?

On September 4, 1992, the EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that the EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to section 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under section 55.4; or (3) when a state or local agency submits a rule to the EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of requirements by the Ventura County APCD on January 8, 2016. Public comments received in writing within 30 days of

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

publication of this document will be considered by the EPA before publishing a final rule.

Section 328(a) of the Act requires that the EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits the EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents the EPA from making substantive changes to the requirements it incorporates. As a result, the EPA may be incorporating rules into part 55 that do not conform to all of the EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by the EPA for inclusion in the SIP.

II. The EPA's Evaluation

A. What criteria were used to evaluate rules submitted to update 40 CFR part 55?

In updating 40 CFR part 55, the EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. The EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12(e). The EPA has excluded administrative and procedural rules² that

² Each COA which has been delegated the authority to implement and enforce part 55 will use its administrative and procedural rules as onshore. However, in those instances where the EPA has not delegated authority to implement and enforce part 55, the EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14(c)(4).

regulate toxics, which are not related to the attainment and maintenance of federal and state ambient air quality standards.

B. What requirements were submitted to update 40 CFR part 55?

After review of the requirements submitted by the Ventura County APCD against the criteria set forth above and in 40 CFR part 55, the EPA is proposing to make the following Ventura County APCD requirements applicable to OCS sources. Earlier versions of these District rules are currently implemented on the OCS.

Rule #	Name	Adoption or Amended Date
42	Permit Fees	04/14/15
74.15.1	Boilers, steam Generators, and Process Heaters	06/23/15
26.13	New Source Review-Prevention of Significant Deterioration (PSD)	11/10/15

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Ventura County APCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Administrative Requirements

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries

that are the same as onshore air control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, the EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by the EPA. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

Under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in 40 CFR part 55 and, by extension, this update to the rules, and has assigned OMB control number 2060-0249. Notice of OMB's approval of the EPA Information Collection Request ("ICR") No. 1601.07 was published in the Federal Register on February 17, 2009 (74 FR 7432). The approval expired January 31, 2012. As the EPA previously indicated (70 FR 65897-65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 hours per response, using the definition of burden provided in 44 U.S.C. 3502(2).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The

EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 25, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedure, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and Recordkeeping requirements, Sulfur oxides.

June 3, 2016.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55 – OUTER CONTINENTAL SHELF AIR REGULATIONS

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. §7401 et seq.) as amended by Public Law 101-549.

2. Section 55.14 is amended by revising paragraph (e)(3)(ii)(H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States’ seaward boundaries, by State.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(H) Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.

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3. Appendix A to part 55 is amended by revising under the heading “California” paragraph (b)(8) to read as follows:

APPENDIX A TO PART 55—LISTING OF STATE AND LOCAL REQUIREMENTS INCORPORATED BY REFERENCE INTO PART 55, BY STATE

* * * * *

California

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(b) * * *

(8) The following requirements are contained in Ventura County Air Pollution Control District

Requirements Applicable to OCS Sources:

Rule 2	Definitions (Adopted 04/12/11)
Rule 5	Effective Date (Adopted 04/13/04)
Rule 6	Severability (Adopted 11/21/78)
Rule 7	Boundaries (Adopted 06/14/77)
Rule 10	Permits Required (Adopted 04/13/04)
Rule 11	Definition for Regulation II (Adopted 03/14/06)
Rule 12	Applications for Permits (Adopted 06/13/95)
Rule 13	Action on Applications for an Authority To Construct (Adopted 06/13/95)
Rule 14	Action on Applications for a Permit To Operate (Adopted 06/13/95)
Rule 15.1	Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16	BACT Certification (Adopted 06/13/95)
Rule 19	Posting of Permits (Adopted 05/23/72)
Rule 20	Transfer of Permit (Adopted 05/23/72)
Rule 23	Exemptions From Permits (Adopted 04/12/11)
Rule 24	Source Recordkeeping, Reporting, and Emission Statements (Adopted 09/15/92)
Rule 26	New Source Review-General (Adopted 03/14/06)
Rule 26.1	New Source Review—Definitions (Adopted 11/14/06)
Rule 26.2	New Source Review-Requirements (Adopted 05/14/02)
Rule 26.3	New Source Review-Exemptions (Adopted 3/14/06)
Rule 26.6	New Source Review-Calculations (Adopted 3/14/06)
Rule 26.8	New Source Review-Permit To Operate (Adopted 10/22/91)
Rule 26.10	New Source Review-Prevention of Significant Deterioration (PSD)(Repealed 06/28/11)
Rule 26.11	New Source Review-ERC Evaluation at Time of Use (Adopted 05/14/02)
Rule 26.12	Federal Major Modifications (Adopted 06/27/06)
Rule 26.13	New Source Review-Prevention of Significant Deterioration (PSD) (Adopted 11/10/15)
Rule 28	Revocation of Permits (Adopted 07/18/72)
Rule 29	Conditions on Permits (Adopted 03/14/06)
Rule 30	Permit Renewal (Adopted 04/13/04)
Rule 32	Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 02/20/79)
Rule 33	Part 70 Permits-General (Adopted 04/12/11)
Rule 33.1	Part 70 Permits-Definitions (Adopted 04/12/11)
Rule 33.2	Part 70 Permits-Application Contents (Adopted 04/10/01)
Rule 33.3	Part 70 Permits-Permit Content (Adopted 09/12/06)
Rule 33.4	Part 70 Permits-Operational Flexibility (Adopted 04/10/01)

Rule 33.5	Part 70 Permits--Timeframes for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6	Part 70 Permits--Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7	Part 70 Permits--Notification (Adopted 04/10/01)
Rule 33.8	Part 70 Permits--Reopening of Permits (Adopted 10/12/93)
Rule 33.9	Part 70 Permits--Compliance Provisions (Adopted 04/10/01)
Rule 33.10	Part 70 Permits--General Part 70 Permits (Adopted 10/12/93)
Rule 34	Acid Deposition Control (Adopted 03/14/95)
Rule 35	Elective Emission Limits (Adopted 04/12/11)
Rule 36	New Source Review--Hazardous Air Pollutants (Adopted 10/06/98)
Rule 42	Permit Fees (Adopted 04/14/15)
Rule 44	Exemption Evaluation Fee (Adopted 04/08/08)
Rule 45	Plan Fees (Adopted 06/19/90)
Rule 45.2	Asbestos Removal Fees (Adopted 08/04/92)
Rule 47	Source Test, Emission Monitor, and Call-Back Fees (Adopted 06/22/99)
Rule 50	Opacity (Adopted 04/13/04)
Rule 52	Particulate Matter-Concentration (Grain Loading)(Adopted 04/13/04)
Rule 53	Particulate Matter-Process Weight (Adopted 04/13/04)
Rule 54	Sulfur Compounds (Adopted 06/14/94)
Rule 56	Open Burning (Adopted 11/11/03)
Rule 57	Incinerators (Adopted 01/11/05)
Rule 57.1	Particulate Matter Emissions From Fuel Burning Equipment (Adopted 01/11/05)
Rule 62.7	Asbestos-Demolition and Renovation (Adopted 09/01/92)
Rule 63	Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64	Sulfur Content of Fuels (Adopted 04/13/99)
Rule 67	Vacuum Producing Devices (Adopted 07/05/83)
Rule 68	Carbon Monoxide (Adopted 04/13/04)
Rule 71	Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1	Crude Oil Production and Separation (Adopted 06/16/92)
Rule 71.2	Storage of Reactive Organic Compound Liquids (Adopted 09/26/89)
Rule 71.3	Transfer of Reactive Organic Compound Liquids (Adopted 06/16/92)
Rule 71.4	Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 06/08/93)
Rule 71.5	Glycol Dehydrators (Adopted 12/13/94)
Rule 72	New Source Performance Standards (NSPS) (Adopted 09/9/08)
Rule 73	National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 09/9/08)
Rule 74	Specific Source Standards (Adopted 07/06/76)
Rule 74.1	Abrasive Blasting (Adopted 11/12/91)
Rule 74.2	Architectural Coatings (Adopted 01/12/10)
Rule 74.6	Surface Cleaning and Degreasing (Adopted 11/11/03-effective 07/01/04)
Rule 74.6.1	Batch Loaded Vapor Degreasers (Adopted 11/11/03-effective 07/01/04)
Rule 74.7	Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)
Rule 74.8	Refinery Vacuum Producing Systems, Waste-Water Separators and Process Turnarounds (Adopted 07/05/83)

Rule 74.9	Stationary Internal Combustion Engines (Adopted 11/08/05)	
Rule 74.10	Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 03/10/98)	
Rule 74.11	Natural Gas-Fired Residential Water Heaters-Control of NOX (Adopted 05/11/10)	
Rule 74.11.1	Large Water Heaters and Small Boilers (Adopted 09/14/99)	
Rule 74.12	Surface Coating of Metal Parts and Products (Adopted 04/08/08)	
Rule 74.15	Boilers, Steam Generators and Process Heaters (5MMBTUs and greater)	(Adopted 04/08/08)
Rule 74.15.1	Boilers, Steam Generators and Process Heaters (1 to 5 MMBTUs) (Adopted 06/23/15)	
Rule 74.16	Oil Field Drilling Operations (Adopted 01/08/91)	
Rule 74.20	Adhesives and Sealants (Adopted 01/11/05)	
Rule 74.23	Stationary Gas Turbines (Adopted 1/08/02)	
Rule 74.24	Marine Coating Operations (Adopted 11/11/03)	
Rule 74.24.1	Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 01/08/02)	
Rule 74.26	Crude Oil Storage Tank Degassing Operations (Adopted 11/08/94)	
Rule 74.27	Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/08/94)	
Rule 74.28	Asphalt Roofing Operations (Adopted 05/10/94)	
Rule 74.30	Wood Products Coatings (Adopted 06/27/06)	
Rule 75	Circumvention (Adopted 11/27/78)	
Rule 101	Sampling and Testing Facilities (Adopted 05/23/72)	
Rule 102	Source Tests (Adopted 04/13/04)	
Rule 103	Continuous Monitoring Systems (Adopted 02/09/99)	
Rule 154	Stage 1 Episode Actions (Adopted 09/17/91)	
Rule 155	Stage 2 Episode Actions (Adopted 09/17/91)	
Rule 156	Stage 3 Episode Actions (Adopted 09/17/91)	
Rule 158	Source Abatement Plans (Adopted 09/17/91)	
Rule 159	Traffic Abatement Procedures (Adopted 09/17/91)	
Rule 220	General Conformity (Adopted 05/09/95)	
Rule 230	Notice To Comply (Adopted 9/9/08)	

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